

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

GEORGE REAVES, JR. and SHERIDAN)
REAVES,)

Plaintiff,)

v.)

Case No. 3:12-cv-161-GPM-DGW

ILIJA KURESEVIC and ILINKA KURESEVIC,)
D/B/A KIM XPRESS)

Defendant/Third Party Plaintiff,)

UPS GROUND FREIGHT, et al.,)

Third Party Defendants.)

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court is the Motion to Strike Requests for Admissions filed by Defendants, Ilija Kuresevic and Ilinka Kuresevic, D/B/A Kim Xpress, on April 4, 2013. The Motion is **GRANTED**.

On March 29, 2013, Third-Party Defendant, UPS Ground Freight, Inc., served requests for admissions upon Defendants related to the damage to its truck and the cause of that damage, namely the accident at the center of this lawsuit that occurred on February 26, 2010. Defendants object by stating that the requests were served after the December 6, 2012 discovery cutoff date. UPS Ground states that it was not a party in this lawsuit when the scheduling order was entered and that Rule 36 Requests for Admissions are not a “discovery device” that would be subject to the deadline. This Court considers requests for admissions to be discovery that would be subject to the deadline. *See Laborers’ Pension Fund v. Blackmore Sewer Const., Inc.*, 298 F.3d 600, 606 n.

2 (7th Cir. 2002) (“We need not decide today whether requests for admission are a discovery device or should be characterized otherwise. The requests filed here were untimely no matter how they are characterized, and the district court did not abuse its discretion in so finding. We note for future consideration that Rule 29 seems to contemplate that requests for admissions are a discovery device.”).

The requests to admit are untimely, having been served after the discovery cutoff date. That UPS Ground may not have been a party to this particular lawsuit until after the scheduling order was entered would not have prevented it from seeking an extension of time to complete discovery and serve timely requests to admit. Defendants’ Motion (Doc. 181), then, is **GRANTED**. The Requests to Admit filed on March 29, 2013 (Doc. 150) are hereby **STRICKEN**.

IT IS SO ORDERED

DATED: April 26, 2013

DONALD G. WILKERSON
United States Magistrate Judge